



AVANIR S61CP3

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Jagadish C. Sircar, et al.)
Appl. No. : 09/983,054)
Filed : October 16, 2001)
For : BENZIMIDAZOLE)
DERIVATIVES AS)
MODULATORS OF IgE)
Examiner : Vickie Kim)
Group Art Unit: 1614)

TERMINAL DISCLAIMER TO OBLIGATE A DOUBLE PATENTING REJECTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The owner, "AVANIR PHARMACEUTICALS" of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior U.S. Patent Nos. 6,451,829; 6,303,645; and 6,271,390 and U.S. Patent Application Nos. 10/103,258 and 10/090,044. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patents and patent applications are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patents and patent applications, as presently shortened by any terminal disclaimer, in the event that it later expires for failure to pay a

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maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by an terminal disclaimer.

1. For submission on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.) the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. The undersigned is an agent of record.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: February 3, 2004

By:


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